

## **Bay Delta Conservation Plan (BDCP)**

### **Steering Committee Meeting**

May 2, 2008, 9:00 a.m. to 10:30 a.m.

Resources Agency Bldg., Room 1311

Draft Meeting Notes

#### **Associated documents/handouts:**

- Agenda
- BDCP Implementation Structure/Governance Working Group Purpose Statement and Implementation Elements
- Draft Approach to Conducting DRERIP Analyses
- Proposed Covered Species Selection Process and Potential Species for Coverage under the BDCP
- Governance WG Process & Schedule Flow Diagram
- Proposed letter to State Water Resources Control Board from Jason Peltier and Richard Roos-Collins

#### **Action Items and Key Decisions**

- Start the collegial review process of the DRERIP draft conceptual models as soon as possible, before the next Steering Committee meeting.
- Convene Biological Goals and Objectives Working Group
- Second Delta Tour set for 6 June

#### **Updates**

Karen Scarborough reporting: First scoping meetings were held this week in Sacramento, Chico, and Clarksburg. Accolades to the Public Outreach WG, a lot of hard work has gone into these. A lot of things are surfacing, meetings have been positive, new thoughts and ideas have been provided. This is what the process is for. On Tuesday, Karen appeared at an Assembly committee hearing on SB27 to give a short report on the status of BDCP schedule. The Assembly committee also heard from Delta Vision, UC Davis and PPIC. Ultimately the committee voted to hold the bill.

John Kirlin provided an update on Delta Vision. Delta Vision is working on the draft strategic plan; meeting information is on the Delta Vision website.

Russ Strach reporting: Disaster declaration signed by Commerce Secretary enabling commercial salmon fishermen to apply for funding. Pacific Fishery Management Council has asked science centers of NMFS to evaluate the freshwater habitat conditions. A report is expected by September 2008. Information generated from this report could be important and valuable to BDCP. Jason Peltier recommends that the independent science centers consult with BDCP to share information. Russ Strach will pass on that request.

Karen Scarborough asked Jason Peltier about dates for another Delta tour, May 23 or June 6? Committee needs to commit to one date or another. Jason gave a summary of anticipated tour stops. He described how valuable the first tour was for those who took part and encouraged the Committee to participate on the upcoming tour. While members of the Steering Committee will have priority seating on the tour bus, members of the working groups and technical teams are welcome to attend.

Ann Hayden reported on the status of working with the documentary film maker Steven Johnson of Veriscope Productions. She gave him contact information for Karen Scarborough and Beth Gerbutavicius. Karen would like him to come to the Steering Committee meeting on May 16.

Roger Patterson described a bus tour of the Delta with a group of business people in which they were amazed and almost overwhelmed by the magnitude of the system.

Jerry Johns reported on the latest snow pack survey. This March and April were driest on record, drier than 1977. Snow is not melting and running off as water, but rather is sublimating (evaporating straight to vapor); we have lost snow pack that would otherwise have contributed to storage. Conditions are now between dry and critical dry categories. The state water system is expected to be significantly taxed.

Jerry Johns reported that selection committees are working on two consultant selection processes. They are in the process of hiring a program manager for the Department of Water Resources to address conveyance implementation. They have also conducted interviews for the NEPA/CEQA consultant for the BDCP. The selection committee is currently discussing and working to come to a decision on the choice of consultants. They are aiming for May and June to get consultants under contract.

John Engbring reported that the release of salmon smolts from hatcheries is at the half way point. Fishermen want to ensure smolts survive so they want the smolts shipped to San Francisco Bay for release. There is a federal pilot program to truck 1.4 million smolts to San Francisco Bay. John McCamman indicated that the state is planning to place 17 million directly into the Bay. The expectation is that survivorship will be much higher. Jason Peltier suggests barging fish down the river.

Karen Scarborough reported that Steve Thompson (USFWS Regional Director) is retiring in August.

Ann Lubas-Williams was introduced as the replacement representative from the Bureau of Reclamation for the retiring Frank Michny. Ann reported the new Regional Director is being announced later today (Don Glaser).

### **Conveyance Working Group**

Jerry Johns and Ann Hayden (co-chairs) presenting. HOTT has met twice. Fish Facilities TT will have its first meeting this afternoon. There has been good participation from both the state and federal fish agencies. DWR has contracted additional outside expertise to help with the FFTT. Fish screen design will be the key task of the FFTT. HOTT has been developing their schedule and process. The SAIC team will initially use hydrodynamic models to separately test operations for north Delta, south and central Delta. Consultant team will work under an ambitious schedule through end of June, working to create conveyance operations scenarios.

By end of June, the Conveyance WG will come up with recommendations to the Steering Committee. The working group is working to refine and quantify goals and objectives. They expect to have recommendations at next Steering Committee meeting and will be asking the SC to make decisions on which scenarios to carry forward.

Ann Hayden reported the Conveyance WG has been discussing the refining and quantifying of biological goals and objectives.

### **DWR Presentation on Dual Conveyance Prepared for Delta Vision**

DWR gave a presentation to the Delta Vision Task Force on dual conveyance scenarios. Jerry Johns expressed concern that the charts presented may not have been clearly understood by the Delta Vision Task Force. He recommended additional meetings with the Delta Vision Task Force to clarify these items.

A recommendation was made that PPIC present a summary of their new conclusions to the Steering Committee at the next meeting or as soon as ready.

## **Habitat Restoration Program Technical Team**

Dave Harlow reporting: The Habitat Restoration Program TT is taking concepts that were presented to the Steering Committee and refining them for use by HOTT. The Habitat Team is also working on criteria for prioritizing and sequencing potential restoration actions, and providing descriptions of actions for use in the DRERIP conceptual model process. Karen Scarborough asked that the Habitat Restoration Program Technical Team and SAIC work to coordinate with other local HCP/NCCP efforts adjacent to BDCP. She wants the participants in these other HCP/NCCP efforts to understand we are partners interested in integration of conservation actions. These other HCP/NCCP programs are great sources of knowledge and scientific information and offer insight into the political issues within their planning areas. Coordination with the Suisun Restoration program has already been conducted.

Laura King Moon reported the Habitat Restoration Program Technical Team has been addressing the issue of biological goals and objectives. Draft biological goals and objectives will be drawn up by the Habitat team to be presented to the Biological Goals and Objectives Working Group.

Jerry Johns reported DWR is working to get the Dutch Slough habitat restoration project implemented. A draft Environmental Impact Report should be available in a month or so.

## **Draft Approach to Conducting DRERIP Conceptual Model Analyses**

Overview of approach to DRERIP conceptual model analyses was presented by Paul Cylinder. This document is being presented to the different working groups, technical teams, and the Steering Committee. There are four parts to the approach. Part one involves the fish agencies offer to provide the species conceptual models to experts from the PREs, NGOs and the Consultant Team for a "collegial review". Table 1 has a preliminary list of names suggested for this review process.

Part two would involve a training workshop on the models and the process for use of the models. The purpose would be to provide an opportunity for the people who have designed the DRERIP models over the last several years to educate BDCP experts on the use of the models.

Part three and four of the approach would involve applying the models to the BDCP conservation measures. Part three contemplates a coarse-level evaluation approach that would use the DRERIP models in a rapid and less formal manner to inform the development of conservation measures within each of the working groups and technical teams. Small teams of experts, people who have been trained at the workshop, would use the DRERIP models to rapidly test and evaluate the conservation measures as they are being developed in the working groups and technical teams.

Part four describes the approach to full DRERIP model evaluations of conservation measures. Once the conservation measures have been combined into a full comprehensive set of measures that constitute the first draft of the overall Conservation Strategy, a formal process of full DRERIP model evaluations will be conducted engaging a larger number of the experts outside of BDCP and using a more formal process than the coarse-level evaluations. The DRERIP evaluation teams will conduct a series of formal workshops in which species and ecosystem responses to proposed conservation actions are evaluated through the full suite of DRERIP conceptual models. A formal recorded output of that review process would be prepared, providing an assessment of the anticipated benefits, drawbacks, and uncertainties of implementing the proposed conservation strategy. These evaluations would help provide the basis for an impact analysis as well as the evaluation of conservation benefits of the conservation strategy proposed under the BDCP.

Questions regarding the approach to the DRERIP analyses:

Dave Harlow reported the Habitat Restoration Program TT has reviewed this approach and are very supportive and strongly encourages its implementation. Greg Thomas reported on John Cain's response to this approach was positive; he also reported a high level of confidence. Richard Roos-

Collins said this is a good approach and looking forward to seeing it implemented. Concerns were raised about limitations of the models. Limitations will be addressed during the workshop process.

Laura King Moon reported that a lot was learned during the dry run conducted several months ago and it revealed the need for more education and interaction on the process. She recommended that this process document be finalized as soon as possible.

Karen Scarborough asked that the collegial review process get started as soon as possible, preferably before the next Steering Committee meeting.

Comments on the DRERIP Analyses document should be sent to Paul Cylinder.

### **Other Stressors Working Group**

John McCamman reporting: The Other Stressors Working Group has met several times. Group has developed comprehensive list of stressors that are affecting covered fish species in the Delta, and a list of subject matter experts who are being contacted for latest information on these stressors. The group has received formal presentations on invasive species and temperature effects. This process is ongoing. By July the WG expects to have a prioritized list of the stressors, summaries of the body of knowledge associated with those stressors, and draft conservation measures. Jason Peltier suggests Rick Wilder's PowerPoint presentation on invasive species to be given to Steering Committee.

### **Implementing Structure/Governance Working Group**

Richard Roos-Collins and Roger Patterson (co-chairs) presenting. Handout reflects the Implementation Structure/Governance Working Group's purpose statement, potential implementation elements, and the Governance WG process and schedule flow diagram (See Associated Handouts/Documents). This handout is submitted to Steering Committee for acceptance as a workplan for this WG. The implementation elements are cataloged by categories: administration of the plan, implementation of the conservation strategy, regulatory compliance and public outreach. The WG wants to underscore two disclaimers: 1) it is not making assumptions about who the "implementation entity or entities" will be and 2) it is not making assumptions about who would have responsibility for BDCP-related conveyance operations or about whether these operations would be transferred from the Bureau and/or DWR to another entity. The bullets have not been prioritized; they are just a "laundry list" of functions.

The Process & Schedule Flow Diagram indicates how the Governance WG will consider recommendations for conservation measures from the working groups and technical teams for making recommendations concerning appropriate implementing entity or entities. This diagram shows the iterative process between the Governance WG and the other working groups, technical teams and the Steering Committee to develop implementation options.

John McCamman asked that the WG take into account the requirements governing conservation easements and mitigation lands as reflected in the California Civil Code and Government Code.

### **Science Liaisons**

A document prepared by SAIC entitled "Proposed Covered Species Selection Process and Potential Species for Coverage under the BDCP" (see Associated Documents and Handouts) was presented and discussed. The document is a rough draft/first cut of potential evaluation criteria and a process that may be used to identify potential covered species within the BDCP planning area. The term "covered species" is used in the regulatory sense - that is, those species for which federal and/or state ESA authorization for take is likely to be required or may be required for the implementation of the BDCP covered activities and BDCP conservation measures.

Assistance from the fish agencies is requested to determine the likelihood of species not presently listed to become listed in the future (to be included in the “Potential to be Listed” column). As covered activities and conservation measures are more firmly defined, the covered species list will likely change and be updated. Karen Scarborough reminded group that ultimately only species covered by the BDCP will be included in the regulatory permits/authorizations.

This document will be forwarded to the Science Liaisons and fish agencies for review. They will then come back with a report to Steering Committee.

Russ Strach requested a new table to highlight species that *might* be affected by the plan that occur within the regulatory “Action Area.”

### **Public Outreach Working Group**

Karen Scarborough highlighted the good work by Karla Nemeth, Janet Babieri, and the Working Group as well as additional support by many of those around the table.

Karla Nemeth presenting: Three scoping meetings have been held: in Sacramento, Chico and Clarksburg. There are an additional seven scoping meetings on the schedule for the next two weeks. There was minimal turnout in Sacramento and Chico, but in Clarksburg there were at least 200 people in attendance. The WG is learning a lot in the process, including about additional things they need to do. The WG identified the need to take additional steps to involve local governments and the people who live in the Delta. There is a unique set of interests and needs related to the types of restoration activities that the SC will be contemplating for the BDCP. There is a concern about misinformation being circulated in the public realm. There is also a recognition that information needs to continue to flow to the public as the development of the BDCP progresses, particularly with regard to the kinds of potential restoration activities being considered their potential impact on local land use and economic interests. John Engbring recommends simplifying terminology for the public, especially with respect to cultural and economics issues.

Karen Scarborough reminds the group that the EIR/EIS scoping process and public outreach efforts are not necessarily the same. Karen Scarborough recommends Steering Committee members take the opportunity to reach out to their individual communities to provide additional communication on the BDCP. Jason Peltier encouraged effective communication to address public fear of the unknown or imaginary issues. For example, he suggested the idea of conducting workshops to better inform the public.

Melinda Terry, an Interested Observer, was introduced as the new manager of North Delta Water Agency.

Russ Strach noted that the scoping period will likely be extended to ensure consistency with NEPA requirements that alternatives be identified during the scoping process. Due to time constraints of today’s meeting, this issue will be addressed outside the SC meeting.

### **Analytical Tools Working Group**

Campbell Ingram reporting: Group has not met recently; still on on-call status.

### **Biological Goals and Objectives Working Group**

The Biological Goals and Objectives WG discussed the timing, resources and approach to establishing measurable biological goals and objectives for BDCP. Preference is to ensure these goals and objectives are reasonable, achievable and measurable. Fish agencies recommend the Steering Committee review the draft Recovery Plan for salmon (not yet available) as well as the Delta Vision’s Ecosystem Workgroup recommendations to help guide the development of goals and objectives.

Recommendation that the issue of establishing measurable goals and objectives for BDCP be sent back to Biological Goals and Objectives Working Group.

### **Proposed letter to State Water Resources Control Board from Jason Peltier and Richard Roos-Collins**

Richard Roos-Collins presented a draft letter to the State Water Resources Control Board (Board) responding to Board questions about BDCP. The letter is being prepared by an ad hoc group of SC members. He indicated the list of ad hoc members is growing. They are asking the Board and the Department of Water Resources to come to a common understanding regarding specific responsibilities and tasks regarding the Board's permitting process for BDCP. They recommend that prior to May 30, DWR and the Board identify what actions may occur before the Board, which issues of law or fact are likely to arise with respect to those actions and so forth. They are also considering approaching the U.S. Army Corps of Engineers with same questions and concerns. Lastly, with respect to notice it is the general opinion of the ad hoc group that notice of a water rights proceeding would need to wait until a complete change petition or request is filed which will be 2010 or later. Water quality issues, however, might be addressed differently. Consequently, they are asking the Board to consider the possibility of an early start on water quality if it can do so without applying the ex parte rule because they want full participation by the Board with the SC and the BDCP working groups. They are asking that a Water Quality Working Group be convened.

There was a recommendation that further discussion continue over the next few weeks to determine the ad hoc group's role in sending such a letter. Request comments and improvements to letter from Steering Committee by May 16 meeting. Send comments by email.

### **Tour Targeted for June 6**

Email Karen Scarborough confirmation of people that will participate on tour.

### **Public Comments**

Melinda Terry new manager for North Delta Water Agency. NDWA represents the largest portion of the Delta. She outlined the NDWA's relationship and agreement with DWR relating to water quality and supply for which they pay a significant amount of money. She requested the opportunity to be added as member of Steering Committee. Karen Scarborough explained process for membership: send an official letter outlining the reasoning why they would like to join; the SC membership subcommittee would then convene to address the letter using established criteria, the subcommittee then makes a recommendation to the Steering Committee. Melinda acknowledged the process and that NDWA will make such a request for membership. She also indicated appreciation for comments from Jason Peltier about their concerns regarding Clarksburg and the Delta. She is concerned that BDCP and Delta Vision don't have the local community involved as equal partners in these efforts.

Barbara Byrne with Planning and Conservation League. She commented on the discussion regarding the biological goals and objectives and how the Governance WG will address adaptive management to deal with ecological surprises and changes over next 50 years. They would like to see the Governance WG address how to make sure conservation measures get regulatory assurances. She also gave affirmation to establishment of achievable goals and objectives.

Justin Frederickson from the California Farm Bureau Federation. He was at Clarksburg scoping meeting. This is an extremely important process. It is important to ensure water deliveries to the farms and cities south of the Delta. However, it is also important to have a viable Delta, in every sense, including Delta agriculture. He is concerned that comments regarding Clarksburg were a little dismissive. He agrees that people came to the meeting because they are afraid that a tidal marsh would be put in their backyard. This is a legitimate concern and agrees that there is a need for

education and myth-busting. However, there were several important and substantive comments made. For example, it is important to determine whether BDCP is compatible with local planning, local investment, adjacent property (e.g., seepage), levees, private property, water quality, loss of high quality farm land, and flood risks? He feels the large turn-out at Clarksburg meeting was a wake up call to deal with these issues more proactively as part of this planning process. Two of the most important issues are agricultural water quality and avoidance of converting high quality farm land for conveyance and habitat restoration. Local constituents and county farm bureaus are concerned.

Karen Scarborough responded that California Farm Bureau Federation has a seat at the table and their concerns are seen as a priority to the Steering Committee.

## **Attendees**

### *Management and representatives*

Karen Scarborough (Chair, The Resources Agency)  
Marc Ebbin (The Resources Agency/DWR)  
Will Stelle (The Resources Agency)  
Laura King Moon (State Water Contractors)  
Tom Howard (SWRCB)  
Jerry Johns (DWR)  
Ann Lubas-Williams (USBR)  
Roger Patterson (Metropolitan Water District)  
John Chillemi (Mirant)  
Tracy Ligon (Santa Clara Valley Water District)  
Jason Peltier (Westlands)  
Karla Nemeth (Zone 7)  
Richard Roos-Collins (American Rivers/Natural Heritage Institute)  
Greg Thomas (Natural Heritage Institute)  
Anthony Saracino (The Natural Conservancy)  
Kenny Watkins (California Farm Bureau Federation)  
John McCamman (DFG)  
John Engbring (USFWS)  
Russ Strach (NMFS)  
Ted Meyers (NMFS)  
Paul Cylinder (SAIC)

By phone:

Greg Gartrell (Contra Costa Water District)  
Steve Rothert (American Rivers)  
Ann Hayden (Environmental Defense Fund)  
Ara Azhderian (SLDMWA)